

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
ELKINS**

JASON CHEWNING,

Plaintiff,

v.

**CIVIL ACTION NO. 2:16-CV-67
(BAILEY)**

**JOHN DOES, numbers one through
five and THE WEST VIRGINIA
REGIONAL JAIL AUTHORITY,**

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day, the above-styled matter came before this Court for consideration of the Report and Recommendation of United States Magistrate Judge James E. Seibert [Doc. 6]. Pursuant to this Court's Local Rules, this action was referred to Magistrate Judge Seibert for submission of a proposed report and recommendation ("R&R"). Magistrate Judge Seibert filed his R&R on November 30, 2016, wherein he recommends this Court grant the defendants' motion to dismiss as to Defendant WVRJCFA, deny the defendants' motion to dismiss without prejudice as to the John Doe Defendants, and grant the plaintiff's motion for extension of time for service.

Pursuant to 28 U.S.C. § 636(b)(1)(c), this Court is required to make a *de novo* review of those portions of the magistrate judge's findings to which objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. ***Thomas v. Arn***, 474 U.S. 140,

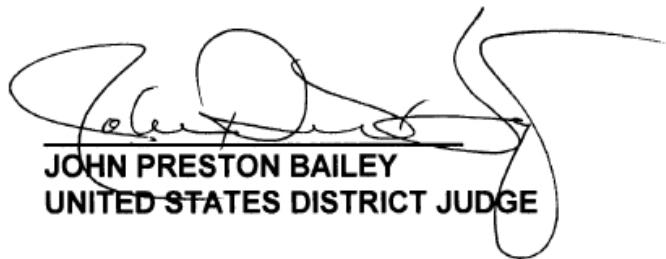
150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo* review and the right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); ***Snyder v. Ridenour***, 889 F.2d 1363, 1366 (4th Cir. 1989); ***United States v. Schronce***, 727 F.2d 91, 94 (4th Cir. 1984). Here, objections to Magistrate Judge Seibert's R&R were due within fourteen (14) days of service, pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b). Service was effectuated on November 30, 2016. To date, no objections have been filed. Accordingly, this Court will review the R&R for clear error.

Upon careful review of the above, it is the opinion of this Court that the **Report and Recommendation [Doc. 6]** should be, and is, hereby **ORDERED ADOPTED** for the reasons more fully stated in the magistrate judge's report. Accordingly, this Court **ORDERS** the defendants' Motion to Dismiss **[Doc. 2]** be **GRANTED IN PART** and **DENIED IN PART**. The Motion is granted as to Defendant West Virginia Regional Jail & Correctional Facility Authority and denied without prejudice as to the John Doe Defendants. This Court further **ORDERS** that the plaintiff's Motion for Extension of Time for Service **[Doc. 5]** be **GRANTED**. The plaintiff may conduct limited discovery in order to learn the true names of the John Doe Defendants, which must be completed within forty-five (45) days of entry of this Order. The plaintiff must serve the John Doe Defendants within thirty (30) days of learning their true identities.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to all counsel of record herein.

DATED: December 21, 2016.



John Preston Bailey
UNITED STATES DISTRICT JUDGE